

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

YISROEL M. KATZOFF, on behalf of
himself and all others similarly situated

Plaintiffs

-against-

PETER T. ROACH & ASSOCIATES, P.C.

Defendants

ANSWER TO COMPLAINT

12-cv-00328-LDW-WDW

Defendant Peter T. Roach & Associates, P.C., by its attorney Mel S. Harris and Associates, LLC, answer plaintiff's complaint as follows:

1. Defendant acknowledges being sued pursuant to federal law, but denies any violation thereof. Defendant denies each and every other allegation contained in paragraph "1" of the complaint.

2. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "2" of the complaint.

3. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "3" of the complaint.

4. Defendant admits the allegations contained in paragraph "4" of the complaint.

5. Defendant admits that it is regularly engaged, for profit, in the collection of debts owed by consumer. Defendant denies knowledge or information sufficient to form a belief as to each and every other allegation contained in paragraph "5" of the complaint.

6. Defendant avers that the FDCPA speaks for itself and further denies the remaining allegations in paragraph "6" of the complaint.

7. Defendant admits this Court has jurisdiction over plaintiff's FDCPA claims. Defendant denies each and every other allegation contained in paragraph "7" of the complaint.

8. Defendant admits that venue is proper. Defendant denies each and every other allegation contained in paragraph 8 of the complaint.

9. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “9” of the complaint.

10. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “10” of the complaint.

11. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “11” of the complaint.

12. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “12” of the complaint.

13. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “13” of the complaint.

14. Defendant avers that paragraph 14 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 14.

15. Defendant denies each and every allegation contained in paragraph “15” of the complaint.

16. Defendant denies each and every allegation contained in paragraph “16” of the complaint.

17. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “17” of the complaint.

18. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “18” of the complaint.

19. Defendant avers that paragraph 19 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 19.

20. Defendant avers that paragraph 20 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that

paragraph 20 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 20.

21. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “21” of the complaint.

22. Defendant denies each and every allegation contained in paragraph “22” of the complaint.

23. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “23” of the complaint.

24. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “24” of the complaint.

25. Defendant denies each and every allegation contained in paragraph “25” of the complaint.

26. Defendant denies each and every allegation contained in paragraph “26” of the complaint.

27. Defendant avers that paragraph 27 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 27 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 27.

28. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “28” of the complaint.

29. Defendant avers that the document referenced in paragraph 29 speaks for itself, and that no further response is necessary.

30. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “30” of the complaint.

31. Defendant denies each and every allegation contained in paragraph “31” of the complaint.

32. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “32” of the complaint.

33. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “33” of the complaint.

34. Defendant denies each and every allegation contained in paragraph “34” of the complaint.

35. Defendant denies each and every allegation contained in paragraph “35” of the complaint.

36. Defendant avers that paragraph 36 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 36 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 36.

37. Defendant denies each and every allegation contained in paragraph “37” of the complaint.

38. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “38” of the complaint.

39. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “39” of the complaint.

40. Defendant denies each and every allegation contained in paragraph “40” of the complaint.

41. Defendant denies each and every allegation contained in paragraph “41” of the complaint.

42. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “42” of the complaint.

43. Defendant denies each and every allegation contained in paragraph “43” of the complaint.

44. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “44” of the complaint.

45. Defendant denies each and every allegation contained in paragraph “45” of the complaint.

46. Defendant denies each and every allegation contained in paragraph “46” of the complaint.

47. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “47” of the complaint.

48. Defendant denies each and every allegation contained in paragraph “48” of the complaint.

49. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “49” of the complaint.

50. Defendant avers that paragraph 50 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 50.

51. Defendant denies each and every allegation contained in paragraph “51” of the complaint.

52. Defendant denies each and every allegation contained in paragraph “52” of the complaint.

53. Defendant denies each and every allegation contained in paragraph “53” of the complaint.

54. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “54” of the complaint.

55. Defendant denies each and every allegation contained in paragraph “55” of the complaint.

56. Defendant avers that the document referenced in paragraph 56 speaks for itself, and that no further response is necessary.

57. Defendant denies each and every allegation contained in paragraph “57” of the complaint.

58. Defendant denies each and every allegation contained in paragraph “58” of the complaint.

59. Defendant avers that paragraph 59 seeks a legal conclusion to which no response is necessary.

60. Defendant denies each and every allegation contained in paragraph “60” of the complaint.

61. Defendant denies each and every allegation contained in paragraph “61” of the complaint.

62. Defendant denies each and every allegation contained in paragraph “62” of the complaint.

63. Defendant denies each and every allegation contained in paragraph “63” of the complaint.

64. Defendant denies each and every allegation contained in paragraph “64” of the complaint.

65. Defendant denies each and every allegation contained in paragraph “65” of the complaint.

66. Defendant denies each and every allegation contained in paragraph “66” of the complaint.

67. Defendant denies each and every allegation contained in paragraph “67” of the complaint.

68. Defendant denies each and every allegation contained in paragraph “68” of the complaint.

69. Defendant denies each and every allegation contained in paragraph “69” of the complaint.

70. Defendant denies each and every allegation contained in paragraph “70” of the complaint.

71. Defendant denies plaintiff’s characterization of the term “tax advice.” Defendant denies each and every other allegation contained in paragraph “71” of the complaint.

72. Defendant avers that paragraph 72 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 72 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 72.

73. Defendant denies each and every allegation contained in paragraph “73” of the complaint.

74. Defendant avers that the document referenced in paragraph 74 speaks for itself, and that no further response is necessary.

75. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “75” of the complaint.

76. Defendant avers that the document referenced in paragraph 76 speaks for itself, and that no further response is necessary.

77. Defendant denies each and every allegation contained in paragraph “77” of the complaint.

78. Defendant avers that paragraph 78 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 78 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 78.

79. Defendant denies each and every allegation contained in paragraph “79” of the complaint.

80. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “80” of the complaint.

81. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “81” of the complaint.

82. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “82” of the complaint.

83. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “83” of the complaint.

84. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “84” of the complaint.

85. Defendant denies each and every allegation contained in paragraph “85” of the complaint.

86. Defendant denies each and every allegation contained in paragraph “86” of the complaint.

87. Defendant avers that paragraph 87 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 87.

88. Defendant avers that paragraph 88 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 88.

89. Defendant avers that the document referenced in paragraph 89 speaks for itself, and that no further response is necessary.

90. Defendant avers that paragraph 90 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 90 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 90.

91. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “91” of the complaint.

92. Defendant avers that paragraph 92 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 92.

93. Defendant avers that paragraph 93 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 93.

94. Defendant avers that paragraph 94 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 94.

95. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “95” of the complaint.

96. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “96” of the complaint.

97. Defendant denies each and every allegation contained in paragraph “97” of the complaint.

98. Defendant denies each and every allegation contained in paragraph “98” of the complaint.

99. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “99” of the complaint.

100. Defendant avers that paragraph 100 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 100 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 100.

101. Defendant denies each and every allegation contained in paragraph “101” of the complaint.

102. Defendant denies each and every allegation contained in paragraph “102” of the complaint.

103. Defendant denies each and every allegation contained in paragraph “103” of the complaint.

104. Defendant denies each and every allegation contained in paragraph “104” of the complaint.

105. Defendant denies each and every allegation contained in paragraph “105” of the complaint.

106. Defendant denies each and every allegation contained in paragraph “106” of the complaint.

107. Defendant denies each and every allegation contained in paragraph “107” of the complaint.

108. Defendant hereby repeats the answer to Paragraphs 1-107 of this Answer as the answer to this Paragraph 108 of the Complaint as though fully set forth herein.

109. Defendant acknowledges that plaintiff has brought this action on behalf of plaintiff and the members of various classes, but denies that a class action is appropriate and preferable in this case.

110. Defendant denies each and every allegation contained in paragraph “110” of the complaint.

111. Defendant denies each and every allegation contained in paragraph “111” of the complaint.

112. Defendant denies each and every allegation contained in paragraph “112” of the complaint.

113. Defendant denies each and every allegation contained in paragraph “113” of the complaint.

114. Defendant denies each and every allegation contained in paragraph “114” of the complaint.

115. Defendant denies each and every allegation contained in paragraph “115” of the complaint.

116. Defendant denies each and every allegation contained in paragraph “116” of the complaint.

117. Defendant denies each and every allegation contained in paragraph “117” of the complaint.

118. Defendant denies each and every allegation contained in paragraph “118” of the complaint.

119. Defendant denies each and every allegation contained in paragraph “119” of the complaint.

120. Defendant denies each and every allegation contained in paragraph “120” of the complaint.

121. Defendant denies each and every allegation contained in paragraph “121” of the complaint.

122. Defendant denies each and every allegation contained in paragraph “122” of the complaint.

123. Defendant denies each and every allegation contained in paragraph “123” of the complaint.

124. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “124” of the complaint.

125. Defendant denies each and every allegation contained in paragraph “125” of the complaint.

126. Defendant denies each and every allegation contained in paragraph “126” of the complaint.

127. Defendant hereby repeats the answer to Paragraphs 1-126 of this Answer as the answer to this Paragraph 127 of the Complaint as though fully set forth herein.

128. Defendant denies each and every allegation contained in paragraph “128” of the complaint.

129. Defendant denies each and every allegation contained in paragraph “129” of the complaint.

130. Defendant denies each and every allegation contained in paragraph “130” of the complaint.

131. Defendant denies each and every allegation contained in paragraph “131” of the complaint.

132. Defendant denies each and every allegation contained in paragraph “132” of the complaint.

133. Defendant denies each and every allegation contained in paragraph “133” of the complaint.

134. Defendant avers that paragraph 134 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Additionally, defendant avers that paragraph 134 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 134.

135. Defendant avers that paragraph 135 seeks a legal conclusion to which no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 135.

136. Defendant denies each and every allegation contained in paragraph “136” of the complaint.

137. Defendant denies each and every allegation contained in paragraph “137” of the complaint.

138. Defendant denies each and every allegation contained in paragraph “138” of the complaint.

139. Defendant hereby repeats the answer to Paragraphs 1-138 of this Answer as the answer to this Paragraph 139 of the Complaint as though fully set forth herein.

140. Defendant denies each and every allegation contained in paragraph “140” of the complaint.

141. Defendant denies each and every allegation contained in paragraph “141” of the complaint.

142. Defendant hereby repeats the answer to Paragraphs 1-141 of this Answer as the answer to this Paragraph 142 of the Complaint as though fully set forth herein.

143. Defendant denies each and every allegation contained in paragraph “143” of the complaint.

144. Defendant denies each and every allegation contained in paragraph “144” of the complaint.

145. Defendant denies each and every allegation contained in paragraph “145” of the complaint.

146. Defendant avers that paragraph 146 violates the “short and plain” requirement under Fed R. Civ. P. 8(a), and that no response is necessary. Subject to the foregoing, defendant denies each and every allegation contained in paragraph 146.

147. Defendant denies each and every allegation contained in paragraph “147” of the complaint.

148. Defendant acknowledges that plaintiff has brought this action on behalf of plaintiff and the members of various classes, but denies that a class action is appropriate and preferable in this case.

149. Defendant denies each and every allegation contained in paragraph “149” of the complaint.

150. Defendant denies each and every allegation contained in paragraph “150” of the complaint.

151. Defendant denies each and every allegation contained in paragraph “151” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

152. Defendant avers that the alleged actions of Defendant were proper and did not violate any provision of 15 U.S.C. § 1692 et. seq.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

153. Plaintiff's claims are or may be subject to an arbitration agreement requiring him to submit his claims to mandatory and binding arbitration. If so, Defendant will exercise its right to arbitration under the agreement, which is specifically enforceable pursuant to the Federal Arbitration Act, 9 U.S.C. Section 1, et. Seq.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

154. Defendant is shielded from any TCPA liability due to reasonable practices and procedures it instituted to avoid any alleged violations of the TCPA. 47 U.S.C. § 227(c)(5)(C).

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

155. Defendant cannot be found liable for the alleged TCPA violations as debt collectors are exempt from liability under the alleged circumstances. *See* 47 C.F.R. § 64.1200(a)(2)(iv); 7 FCC Rcd. 8752, 8771-8772.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

156. Any act or omission by defendant, if determined to be in violation of the Fair Debt Collections Practices Act ("FDCPA"), which defendant denies, was not intentional and was the result of a *bona fide* error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Accordingly, defendant would have no liability pursuant to 15 U.S.C. § 1692k(c).

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

157. The Complaint, and each cause of action alleged therein against Defendant are barred by the conduct, actions and inactions of Plaintiffs, which amount to and constitute an estoppel of the claims and any relief sought by the Complaint.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

158. The allegations and claims asserted in the Complaint have always been and continue to be frivolous, groundless and without merit as against Defendant. Plaintiff has brought this action against Defendant in bad faith.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

159. Plaintiff's Complaint and each purported cause of action alleged therein against Defendant were not brought in good faith and are frivolous. Therefore, the relief requested is precluded and Defendant is entitled to recover its reasonable expenses, including attorneys' fees, incurred herein as a matter of law pursuant to this Court's inherent authority.

Wherefore, Defendant respectfully prays that this action be dismissed with prejudice in its entirety and that Defendant be awarded reasonable attorneys' fees and costs incurred to date in defending this action and for such other and further relief as this Court deems proper.

Dated: New York, NY
March 9, 2012

/S/ Scott E. Wortman
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